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COMMISSION ON HUMAN RIGHTS

First Special Session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 13 August 1992, at 10 a.m.

Chairman: Mr. SOLT (Hungary)

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Letter dated 5 August 1992 from the Permanent Representative of the United States of America to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights

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GE.92-13218/4039B (E)

The meeting was called to order at 10.40 a.m.

1. The CHAIRMAN declared open the First Special Session of the Commission on Human Rights. The Commission was meeting in exceptional circumstances to consider a particularly serious matter. It should accordingly make the best possible use of the time allotted to it to perform its arduous task.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (E/CN.4/1992/S-1/1 and Add.1)

2. The CHAIRMAN invited the Commission to adopt its agenda.

3. Mr. OMAR (Libyan Arab Jamahiriya) observed that the letter dated 5 August 1992 (E/CN.4/1992/S-1/2) from the Permanent Representative of the United States of America addressed to the Under-Secretary-General for Human Rights, which had given rise to the Special Session of the Commission, referred to "the dangerous deterioration of the human rights situation in the former Yugoslavia". The terms used seemed too broad as it was only certain regions of the former Yugoslavia that were suffering from serious human rights violations. He therefore proposed that item 3 of the provisional agenda should read "Dangerous deterioration of the human rights situation in the former Yugoslavia, and in particular in Bosnia and Herzegovina", or at least that such words should be added to the wording of item 3 as it appeared in document E/CN.4/1992/S-1/1. His proposal contained the same words as those used by the Security Council in its debates on the situation in Bosnia and Herzegovina.

4. The CHAIRMAN considered that it was not possible to amend the wording of item 3, which merely referred to the letter from a State member of the Commission.

5. Mr. OMAR (Libyan Arab Jamahiriya), supported by Mr. AL-TAKRITI (Iraq), said that the fact the agenda item under consideration was entitled "Adoption of the agenda" was precisely to enable delegations to discuss the agenda, which had not yet been adopted.

6. Mr. WALKER (Australia), supported by Mr. BOLTON (United States of America), said that rule 42 of the rules of procedure of the functional commissions of the Economic and Social Council was perfectly clear: if the representative of the Libyan Arab Jamahiriya wished to appeal against the Chairman's ruling on the point of order raised, his appeal should immediately be put to the vote in order to allow the Commission to address the substantive questions before it without delay.

7. The CHAIRMAN asked delegations if they had any observations to make concerning the Libyan proposal.

8. Mr. SENE (Senegal) considered that the situation was too serious for the Commission to become bogged down in a procedural debate. It was the letter from the representative of the United States, a letter whose title had been used for the wording of agenda item 3, which had made it possible to convene a special session of the Commission on the serious situation of human rights in

the former Yugoslavia. Everyone was aware that it was Bosnia and Herzegovina which was the most seriously affected part. The wording proposed by the Libyan Arab Jamahiriya enabled the Commission to get down to work, although other regions, such as Kosovo, must not be forgotten. He emphasized the need for a decision by consensus on that point, without a vote.

9. Mr. ENNACEUR (Tunisia) said that, in his view, the Libyan proposal reflected a desire to flesh out the substance of agenda item 3, and not to change it. It was true that, as it stood, the wording was somewhat vague. He agreed with Mr. Sene on the need to reach a consensus on that point.

10. Mr. MASHADI (Islamic Republic of Iran) supported the previous two speakers. He also proposed that the Commission should adopt the proposal made by the Libyan Arab Jamahiriya by consensus and that it should take up its substantive work without delay.

11. Mr. BOLTON (United States of America) pointed out that it was thanks to the initiative of his country that the Commission on Human Rights was for the first time meeting in special session, and that 35 members of the Commission had replied favourably to the letter from the United States proposing the convening of the current session. The agenda prepared by the secretariat faithfully reflected that fact and if there was disagreement within the Commission, a vote should be taken without any further delay.

12. Mr. WALKER (Australia) said that he did not disagree with the substance of the proposal by the representative of the Libyan Arab Jamahiriya, but he felt there was a danger that that proposal might set a serious precedent, as it would signify that it was possible to amend the agenda which had given rise to the convening of the special session when the session had already begun.

13. Mr. VAN WULFFTEN PALTHE (Netherlands) said he shared the views of the previous two speakers.

14. Mr. BROTODININGRAT (Indonesia) said he saw no reason why a delegation should be prevented from proposing an amendment to the agenda.

15. Mr. KAMAL (Pakistan) said that there was indeed no doubt that it was on the initiative of the United States, supported by several other countries, that the Commission had been convened in special session; but there was also no doubt that members were entitled to amend the Commission's agenda provided their proposals were realistic. In any event, it was essential to avoid a vote on that matter at all costs and to endeavour to preserve the consensus. Rule 42 of the rules of procedure could not apply in the present case as the proposal by the Libyan Arab Jamahiriya was not a point of order.

16. Mr. SHAH (India) reminded members that his country had supported the initiative by the United States for the convening of a special session of the Commission. The question before it was whether, by adding to the agenda, the Commission was not setting a precedent which would subsquently be invoked in order to add an indeterminate number of items to the agenda of any special sessions that might be convened pursuant to General Assembly resolution 1990/48.

17. The CHAIRMAN said that if the Libyan Arab Jamahiriya maintained its proposed amendment to item 3 of the provisional agenda, the Commission would take a vote, in accordance with rule 64 of its rules of procedure.

18. Mr. WALKER (Australia) opposed the Libyan amendment for reasons of form. The Commission should not set a precedent by amending the agenda of a special session at the last minute.

19. Mr. TUERK (Austria), Ms. PARK (Canada), Mr. BOLTON (United States of America), Mr. OSMANY (Bangladesh), Mr. GRAÇA LIMA (Brazil), Mr. SHAH (India), Mr. SAMOYA (Burundi), Mr. GOONETILLEKE (Sri Lanka) and Mr. VILLARROEL (Philippines) supported the views expressed by Mr. Walker.

20. Mr. ENNACEUR (Tunisia) argued that the Libyan proposal did not add anything new to the agenda; it merely clarified agenda item 3 and made it more specific.

21. Mr. KAMAL (Pakistan) explained that the Libyan amendment was in conformity with the request made by the United States in its letter to the Under-Secretary-General for Human Rights; in no way did it alter the substance of the issue raised by item 3. In any event, the situation in the former Yugoslavia was so serious that it would appear to justify establishing a precedent by amending an agenda which had already been decided.

22. Mr. MORLAND (United Kingdom), speaking on behalf of the States members of the European Economic Community, urged the Commission not to spend time on procedural matters but to turn its attention to questions of substance.

23. Mr. BROTODININGRAT (Indonesia) said that, if there was a vote, his delegation would abstain as no one had put forward a valid argument against the Libyan proposal; however, its abstention should not be interpreted as indicating a lack of interest in the work of the session.

24. Mr. MASHADI (Islamic Republic of Iran), Mr. AMOO-GOTTFRIED (Ghana), Mr. RIMDAP (Nigeria), Mr. HELLER (Mexico) and Mr. LEMINE (Mauritania) supported the Libyan proposal as it did not involve a substantive change in the agenda. On the contrary, it made it more explicit, highlighted the situation which had motivated the convening of the Special Session and would give more weight to the Commission's deliberations.

25. Mr. SENE (Senegal) considered that the procedural debate had gone on too long; as there was agreement on the United States initiative calling for the convening of a special session, it was time to move on to the substantive issue. Supported by Mr. TOTH (Hungary), he requested the Libyan delegation to withdraw its proposed amendment.

26. Mr. OMAR (Libyan Arab Jamahiriya) maintained his view that he was right in attempting to clarify the text and that any delegation was entitled to question an agenda before it was adopted; he had not heard any convincing argument against his proposal. However, after having consulted the Vice-President of the Republic of Bosnia and Herzegovina and those delegations which had supported his proposal, he deemed it preferable to request the Chairman not to put it to a vote.

27. The CHAIRMAN said that, if there was no objection, he would take it that the Commission wished to adopt the agenda as contained in document E/CN.4/1992/S-1/1 and Add.1.

28. It was so decided.

ORGANIZATION OF WORK (agenda item 2)

29. The CHAIRMAN proposed that during the general debate each speaker should speak once only and for a maximum of 10 minutes. Exercise of the right of reply and procedures for consideration of proposals and for voting would take place in the usual manner.

30. He reminded members that rule 52 of the Commission's rules of procedure allowed the required 24-hour period between the circulation of the texts of proposals and amendments and the vote thereon to be waived. He proposed that, in view of the circumstances, the Commission should not apply that rule.

31. It was so decided.

32. The CHAIRMAN said that the Commission would complete its work by adopting its report.

33. Mr. BLANCA (Under-Secretary-General for Human Rights) said that in view of the exceptional nature of that meeting of the Commission, and with the Chairman's permission, he would refrain from making a statement on the occasion of the opening of the Commission's work.

34. However, he wished to take the opportunity to introduce the Director of the Centre for Human Rights, Mr. Ibrahim Fall, from Senegal, who had just been appointed to that post, recently created by the General Assembly of the United Nations.

LETTER DATED 5 AUGUST 1992 FROM THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS (agenda item 3) (E/CN.4/1992/S-1/2)

35. Mr. MORLAND (United Kingdom) said that the European Community and its member States, on whose behalf he was speaking, had on numerous occasions reiterated that they had not accepted the automatic continuity of the Federal Republic of Yugoslavia in international organizations, including the United Nations. The presence of representatives of Serbia and Montenegro at the current meeting of the Commission was accordingly without prejudice to the position of the European Community and its member States.

36. Mr. BRANKOVIC (Yugoslavia), speaking on a point of order, denounced what he termed the "political hypocrisy" that was preventing the Federal Republic of Yugoslavia from participating in a debate whose subject was consideration of the deterioration of human rights in the former Yugoslavia, despite the fact that it was a member of the Commission. He regretted the fact that the Commission had not invited the three nations to be represented in the debate. The Commission was not competent to take any decision on that question.

37. Mr. BOLTON (United States of America) said that the Socialist Federal Republic of Yugoslavia no longer existed and that Serbia and Montenegro were not its successors. Thus they were not entitled to occupy the seat of the former Socialist Federal Republic of Yugoslavia. In that connection, he reminded the Commission that Security Council resolution 757 (1992) of 30 May 1992 stipulated that "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted". The United States position was also based on the report recently published by the European Community, which had concluded that there was no authority for Serbia and Montenegro to represent the former Yugoslavia in the international organizations.

38. His delegation considered that the United Nations Security Council and General Assembly were the organs competent to decide the question of the membership status of Serbia and Montenegro in the United Nations system and that they should do so as soon as possible. Thus the participation of representatives of Serbia and Montenegro in the current meeting did not prejudge the General Assembly's decision on that question.

39. Mr. TUERK (Austria) said that his Government had repeatedly voiced its opinion that there was no legal basis for automatic continuation of the legal existence of the former Socialist Federal Republic of Yugoslavia by the Federal Republic of Yugoslavia. Consequently, the participation of the Federal Republic of Yugoslavia in the current Special Session of the Commission could in no way be considered to prejudge any future decisions taken by the appropriate United Nations bodies or to constitute any form of recognition by Austria. It should be emphasized that, for the purposes of possible recognition of the Federal Republic of Yugoslavia, the criteria determined by the European Community on 16 December 1991 for the succession of States must be applied.

40. Mr. WALKER (Australia), Mr. ITO (Japan) and Ms. ROSS (Canada) stated that the participation of the Federal Republic of Yugoslavia (Serbia and Montenegro) in the work of the Special Session of the Commission in no way prejudged the position of their respective countries regarding the succession of the former Yugoslavia.

41. Mr. BOLTON (United States of America) said that his country had requested the convening of the Special Session of the Commission on Human Rights because, like many other countries, it was appalled at the savagery being unleashed on the citizens of the former Yugoslavia.

42. There was no doubt that there were ongoing abuses of human rights in that territory, in direct violation of international law. Carnage was being wreaked on the innocent civilian population of Bosnia by opposing military forces. Entire populations were being expelled as part of the policy of "ethnic cleansing". In the camps, people were systematically tortured and executed, while camp prisoners were being moved in an effort to hide the horrors inflicted on them.

43. To shed as much light as possible on the situation, his delegation called for an investigation into human rights violations in the republics of the former Yugoslavia, particularly Bosnia and Herzegovina, a full airing of all charges relating to abuses of human rights and violations of international law, determination of who was responsible for such abuses, and unimpeded access by humanitarian organizations such as the International Committee of the Red Cross (ICRC) to all victims of the conflict, including those held in detention. To that end, his delegation proposed that the Commission should appoint a special rapporteur who, acting under the authority of the United Nations, would conduct an urgent first-hand investigation to enable the United Nations, as well as the Conference on Security and Cooperation in Europe (CSCE), to consider further action. Such action would complement, rather than supplant, the efforts of other organizations.

44. His delegation had submitted to the Commission a draft resolution which should be overwhelmingly endorsed by the member States, as it was evidence of the uniform revulsion felt throughout the world and the joint determination not to remain idle.

45. Political gains made through violence could only be maintained through further violence and repression. The international community would never accept the redrawing of boundaries by force in Yugoslavia; the sooner the parties accepted that fundamental fact, the sooner the crisis would be peacefully resolved.

46. The Nürnberg Tribunal had reaffirmed the principle of individual accountability for crimes against humanity committed in the name of national or ethnic groups. The United States was fully prepared to join with others in seeing that individuals guilty of violations of international law and human rights principles were held accountable for their acts. It had proposed in the Security Council a "war crimes" resolution to ensure such accountability, and wished to see it adopted as soon as possible.

47. It was the duty of the international community to react against the treatment being meted out to the peoples of the former Yugoslavia, whatever their group. The United States called on the Commission to adopt all measures, including a full and immediate investigation, that would help protect the victims of that tragic conflict.

48. Mr. GANIC (Observer for Bosnia and Herzegovina) noted that Bosnia and Herzegovina, a Member of the United Nations, also participated in other international organizations such as CSCE and subscribed to international human rights treaties and standards of conduct.

49. The aggression being perpetrated by Serbia and Montenegro, which the Belgrade regime portrayed as a "civil war", had made victims of all the inhabitants of Bosnia. Although the Muslims were the main target, the policy of "ethnic cleansing" was also directed against the Croatians in Bosnia. Since the aim of the aggressor was to create a Greater Serbia through the unification of ethnically homogeneous territories, it was to be feared that that policy would extend to Vojvodina, Sandjak and Kosovo. Other countries

in Europe might suffer the same fate, and other countries would be encouraged to pursue genocide if that crime against humanity - ethnic cleansing - went unpunished.

50. As to the situation in the concentration camps, the atrocities that occurred there had been reported by UNHCR, human rights monitors and the international media. More than 100 such camps had been established and more than 120,000 people were dying in them.

51. Those terrible human rights abuses were violations of international law, including the International Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions and the Charter of the United Nations. Despite the fact that the draft resolution before the Commission did not mention Serbia and Montenegro as aggressors, he commended the text and urged the immediate dispatch of a special rapporteur to investigate the crimes against humanity being perpetrated in Bosnia and Herzegovina. He invited the humanitarian organizations, in particular ICRC, to inspect prison conditions in Bosnia and Herzegovina and the concentration camps set up by Serbian extremists and the Belgrade regime, but warned that prisoners were at that very moment being moved in order to cover up the atrocities that had been committed.

52. A war crimes tribunal should be established. INTERPOL should issue arrest warrants for Serbian aggressors who flaunted their disregard for human rights. Compensation for lost property should be provided.

53. The rapporteur should exercise his functions until the full extent of the atrocities was revealed. In that connection, he urged the rapporteur to prepare a preliminary report for submission to the UN-EC Conference on Yugoslavia which was to begin in London on 26 August. It was to be hoped that the rapporteur's final report would be submitted to the Commission on Human Rights as soon as possible. The report could be transmitted by the Commission to the Secretary-General and thus be made available to the members of the Security Council.

54. Mr. SIMONOVIC (Observer for Croatia) stressed that the human rights violations being committed in Bosnia and Herzegovina were not merely acts of barbarism, but the result of Serbian expansionism. They were part of a deliberate policy that had first been implemented in Kosovo, the first victims being the Albanians and Muslims. Back on 2 January 1992, the Croatian Government had requested an inquiry into the destruction of civilian hospitals, the ill-treatment and killing of prisoners, and living conditions in the prisons, which were in fact concentration camps. But that request, like several proposals made by his Government, had been refused by Serbia.

55. Today, when efforts were being made to set up a new world order, there was an urgent need to restore peace in the region and to ensure respect for human rights, in the interest not only of the populations of Croatia and Bosnia-Herzegovina, but of the entire international community as well.

56. Mr. KAMAL (Pakistan) stressed that the events that had given rise to the convening of the current Special Session of the Commission on Human Rights were the direct result of the expansionist policy pursued by the Serbian

leadership and implemented through continued military action against Bosnia and Herzegovina. The Government and people of Pakistan were deeply disturbed by the continuation of that conflict and the gross violations of human rights in the region. Having recognized Bosnia and Herzegovina on 11 May 1992, Pakistan attached great importance to the independence, sovereignty and territorial integrity of that country, to the preservation of the ethnic identity of its people and to the protection of their religious, cultural and human rights. Pakistan was deeply aware of the fact that the Muslims, who constituted the majority of the population, were the aggressors' main victims.

57. The human rights situation had reached dramatic proportions, since reports were now referring to concentration camps and torture and were reminiscent of Nazi war crimes. The policy of "ethnic cleansing" was a crime against humanity. Immediate action was called for to put an end to tha barbarity. His delegation condemned in the strongest possible terms the continuation of aggression against Bosnia and Herzegovina and the systematic terror and brutality unleashed on its inhabitants. To protest against the unacceptable policies being pursued by Belgrade, Pakistan had recalled its Ambassador and asked the Belgrade representative to leave Islamabad. The sovereignty and territorial integrity of Bosnia and Herzegovina must be respected by all, and that could only come about when the complete and unconditional withdrawal of Serbian regular and paramilitary forces took place.

58. Pakistan did not recognize Serbia and Montenegro as the successors of the former Socialist Federal Republic of Yugoslavia. As long as they continued to violate the sovereignty of Bosnia and Herzegovina and the human rights of its people, those two entities should not be allowed to occupy a seat in the United Nations or in the other international organizations of which the former Yugoslavia had been a member.

59. Pakistan unequivocally supported all efforts by the international community to ensure rapid delivery of humanitarian assistance to the victims of Serbian aggression. The human tragedy had reached such proportions that all possible means must be used to deliver humanitarian relief. For its part, Pakistan had provided a grant of $10 million and a credit of $20 million, in addition to humanitarian assistance in the amount of 10 million rupees as a token of its solidarity with the people of Bosnia and Herzegovina.

60. Pakistan was strictly implementing all the resolutions of the United Nations, including those relating to sanctions, as well as the resolutions of the Organization of the Islamic Conference on the situation in the former Yugoslavia. His delegation believed that, in view of Serbia's refusal to implement the relevant Security Council resolutions, the time had come to invoke Chapter VII, Article 42, of the Charter of the United Nations. At the same time, given the prevailing circumstances, Bosnia and Herzegovina should be exempted from the provisions of Security Council resolution 713 (1992) on sanctions.

61. Immediate and effective measures by the international community were essential to avoid further deterioration of the situation, which would have catastrophic consequences for international peace and security.

62. Mr. STAFFORD (Deputy High Commissioner for Refugees) expressed UNHCR's full support for the initiative of convening a special session of the Commission. The gravity of the situation in the former Yugoslavia, especially in the Republic of Bosnia and Herzegovina, fully justified the urgent attention of the most important human rights body of the United Nations.

63. Rarely had human rights and humanitarian law been so openly and systematically flouted. What was being witnessed was an obvious desire to expel people from their homes and destroy communities, with displacement becoming the goal, not just the result, of the war. More than 2.5 million people had already been displaced. UNHCR was naturally present in the field, but its efforts were encountering considerable obstacles. Thus at the International Meeting on Humanitarian Aid for Victims of the Conflict in the Former Yugoslavia on 29 July, the High Commissioner had presented a plan for a comprehensive humanitarian response, containing 7 elements, which had been endorsed by 86 Governments. The first element on the list was respect for human rights and humanitarian law, which was not surprising since comprehensive humanitarian action could not be successful if the basic principles of humanitarian law were violated.

64. In the opinion of UNHCR, the Special Session of the Commission provided opportunity for action on two fronts. First, it allowed the international community to reaffirm the fundamental human rights, beginning with the right to remain in one's own home. The Commission must condemn the reprehensible practice of "ethnic cleansing", and clearly recognize the fundamental right of the refugees and displaced persons to return to their place of origin and to have their property restored to them. It must draw the attention of all parties to their responsibility to respect those rights, warn the perpetrators of war crimes and crimes against humanity that they would have to answer for their acts, and finally reaffirm the rights of the child, a field in which UNHCR cooperated with UNICEF.

65. Along the same lines, UNHCR called on the Commission to recognize the right of individuals to seek international protection and assistance, and the corollary obligation of all parties to provide humanitarian access.

66. The Commission must also act in a second area. There was an urgent need for full and objective information on the human rights situation. An impartial mechanism for collection and verification of information, established by the Commission, would prevent the rumours that were being used to support propaganda for fuelling the conflict, and, through international pressure, might help reduce the human rights violations. Therefore, UNHCR welcomed the proposal to appoint a special rapporteur and would be happy, within the terms of its mandate and its specific responsibilities, to cooperate with him.

67. UNHCR was convinced that, whatever could be accomplished in the humanitarian field, the real answer lay in political action to bring about a just and lasting peace. By reaffirming the fundamental principles of human rights and by exposing violations, the Commission could help to arouse the conscience of the world and induce it to take decisive action for peace, before it was too late.

68. Mr. BASTA (United Nations Children's Fund) fully endorsed the views expressed by the Deputy High Commissioner for Refugees. Referring to the provisions of the Convention on the Rights of the Child concerning protection of children in armed conflicts, he expressed the hope that any resolution or other measure adopted would contain provisions to ensure respect for the rights of the child.

69. Mr. KANACH (International Committee of the Red Cross) briefly summarized ICRC action, in the framework of its humanitarian mission, since the beginning of the conflict and reported certain positive results, especially in Croatia. However, results with regard to Bosnia and Herzegovina were negative, as the President and Deputy Director of Operations of ICRC had recently stated. For the enormous obstacles impeding humanitarian intervention to be removed, the parties to the conflict must implement the rules of international humanitarian law and respect the laws of war. Forcible transfers of populations and the policy of "ethnic cleansing" must be halted; conditions of detention must be improved in all places under the control of all parties in the conflict and ICRC and other humanitarian agencies must be allowed access to all regions of Bosnia and Herzegovina; ICRC delegates must be allowed to visit all places of detention throughout that territory. Finally, political solutions to the conflict must be found.

70. That was the message of ICRC, which solemnly appealed to all parties to the conflict and to the international community to make every effort to end unacceptable practices, of which the detention of thousands of civilians in precarious conditions was only one aspect. ICRC intended to continue its action in the field, but it would not be able to do so without an extra effort by political bodies and States. In that connection, ICRC had no objection to the appointment of a special rapporteur, whose role would necessarily complement its own.

The meeting rose at 1.20 p.m.